

Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

Minutes

August 21, 2006

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Minutes 7/24/2006

Bills

Budget

Meeting schedule

APA Chapter membership

Mass. Federation PB & BOA membership

GIS Development Task Force

Town Hall technology/web site

Consulting engineering services

Preparation of rules and regulations for Personal Wireless Communications Facilities bylaw (Broadcast Signal Lab – Planning Board/joint subcommittee.

Discussion of strategy with regard to pending litigation, Valchuis et al. v. Planning Board, Berry Corner Lane, Map 7, Parcel 29 (motion to go into executive session may be entertained)

Review of application to Zoning Board of Appeals for Comprehensive Permit under MGL Chap. 40B for 41 condominium units/12 affordable of attached housing to be known as “Coventry Woods,” on Concord Street, northeasterly of 515 Concord Street (Map 8, Parcel 10 – 22.8 acres), (Application of Coventry Woods LLC and MCO & Associates, Inc., referred by Board of Appeals)

Discussion of potential amendments to Special Permit Rules and Regulations for Accessory Apartments to incorporate zoning bylaw amendments (Sec. 5.6) approved by 2006 Town Meeting

Report on progress to obtain necessary approvals and design of footpath parallel to Cross St., as authorized in consideration of approval of Greystone Crossing Conservation Cluster special permit.

Joint Public Hearing with Carlisle Tree Warden of request to remove one 40-inch ash tree within the right of way of Lowell Street adjacent to Map 22, Parcel 42, to reconfigure the entrance to the Town-owned parking area at that location, under the provisions of the Scenic Roads Bylaw (Art. XII & MGL Ch. 40, s. 15C) and the Public Shade Tree Act (MGL Ch. 87, s.3) [Request of Superintendent of Public Works]

Application by Sabrina Perry, Lincoln, MA, for Site Plan Approval under Sec. 7.6 of the Zoning Bylaws for the improvements to Center Park on Town-owned property on Lowell Street, Map 22, Parcel 42, seeking a report and recommendation to the Board of Selectmen (Due date 10/2/06)

Request for certification of substantial completion of Common Driveway Special Permit for 136-138 East Street [Request of Theodore Treibick]

ANR Plan: 268 Fiske Street, Map 30, Parcel 11, John Ballantine, applicant

ANR Plan: Tophet Road, Map 23, Parcels 22 & 23, Steven G. Breitmaier and Raymond J. Ciccolo, applicants

Vice Chair, Michael Epstein called the meeting to order at 7:30 pm in the Clark Room at Town Hall. Board members **Brian Larson, Tom Lane, Kent Gonzales, Greg Peterson** and Planning Administrator **George Mansfield** were present. **David Freedman** and **Peter Stuart** were absent.

Gretchen Caywood, assistant to the Planning Administrator, Sylvia Sillers (Concord, St.), Linda Myers-Tierney and Steven Tierney (Lowell St.), Jenifer Bush (Church St.), Bob Hilton (Lowell St.), Arthur Turner (Lowell St.), Sally Naumann (Lowell St.), Gary Davis (Superintendent, DPW, and Carlisle Tree Warden) and Sabrina Perry (Lincoln, MA) were also in attendance.

Minutes

The PB discussed the draft minutes of July 24, 2006. Larson then moved to approve the minutes of July 24, 2006 as drafted. Lane seconded and the motion passed 5-0.

ANR Plan: 268 Fiske Street, Map 30, Parcel 11, John Ballantine, applicant

Mansfield reviewed the first discussion of this plan, which took place at the June 12, 2006 PB meeting. This plan creates a second building lot on the property, and also establishes building envelopes. The land outside these envelopes is subject to an amended conservation restriction (CR). The plan also creates an access and utility easement, to serve an eventual common drive, and trail easements.

Mansfield pointed out that the errors and omissions of the original plans have been corrected. Most importantly, the previous CR prohibited division of the lot, but that provision has been extinguished by the amended CR, which has been filed and recorded. Also, the separate CR plan originally submitted has been withdrawn, as Stamski & McNary has determined that the PB signatures are not required on this document.

Larson moved to endorse as approval not required the plan of land in Carlisle, MA for 268 Fiske Street, located on Map 30, Parcel 11, dated June 8, 2006 and prepared by Stamski & McNary for John Ballantine. Lane seconded, and the motion carried 5-0.

Joint Public Hearing with Carlisle Tree Warden of request to remove one 40-inch ash tree within the right of way of Lowell Street adjacent to Map 22, Parcel 42, to reconfigure the entrance to the Town-owned parking area at that location, under the provisions of the Scenic Roads Bylaw (Art. XII & MGL Ch. 40, s. 15C) and the Public Shade Tree Act (MGL Ch. 87, s.3) [Request of Superintendent of Public Works]

Epstein opened this joint public hearing by reading the legal notice:

“In accordance with the provisions of Massachusetts General Laws, Chapter 40, Section 15C, Chapter 87, Section 3, and the Carlisle General Bylaws, Article XII, the Carlisle Planning Board and the Tree Warden will hold a joint public hearing on **Monday, August 21, 2006 at 7:45 p.m. at the Carlisle Town Hall, 66 Westford Street, Carlisle, MA.** to hear a request by the **Superintendent of Public Works** to remove one tree located on **Lowell Street, a Scenic Road, on Assessors Map 22, Parcel 42.** The tree removal is necessary to assure public safety, and will include one 40-inch diameter ash tree that is located 7 feet south of utility pole number 4S on Lowell Street. The adjacent property is located within the Historic District.

Said proposed action will require the written consent of the Planning Board and a permit issued by the Tree Warden.

Gary Davis (Superintendent, DPW, and Tree Warden) said that while this issue has arisen now due to the Center Park project, within 1-2 years a hearing would be required to request this tree removal for safety reasons, as the tree is dying. Therefore, the issue is independent of the Center Park project. Davis also confirmed that the DPW generally pays for tree removal within the public right-of-way. Mansfield added that he is not aware that the Center Park has allowed for tree removal funds in its budget.

Epstein read from a letter submitted to the PB by John Bakewell, Carlisle Arboriculture, in which Bakewell agrees with Davis that the tree should be removed. He cited several reasons:

- the decay visible in the upper crown is an indicator of probable decay within the rest of the tree. Its location gives it many “targets” when it falls or loses large branches, therefore justifying a Hazard Tree determination in his opinion
- While various decay detection techniques are available that may point to an approach for maintenance and reinforcement, these are expensive and not in proportion to the resources available, and
- Even if the Town had more resources to extend the life of vintage trees, this would be a poor candidate due to its poor condition. If not currently infected, the likelihood of future infection of this tree with Ash “yellows” is very high.

Several residents spoke on behalf of saving this approximately 200 year old tree. Bob Hilton (Lowell St.) spoke for the importance of shade trees, and the lack of remaining ones in Town center. Alan Carpenito (South St.) asked Davis if pruning measures would be worthwhile, to which Davis replied that from 20’ up the middle of the tree is dying. Therefore pruning would not save the tree. Sylvia Sillers (Concord St.) agreed with Davis that the

center of the tree seems to be dying. Davis added that it would likely take considerable funds to save the tree, and the results could not be guaranteed.

Epstein ascertained from Davis that the tree does not pose an imminent danger, and therefore immediate removal is not required. Gonzales confirmed from the closest abutters that the tree is not a danger to their personal property. Therefore the hearing will be continued in order to obtain more information on options to salvage the tree. Larson asked Mansfield to inquire whether the Center Park plans absolutely require tree removal. Epstein asked Davis to obtain additional information on potential costs to preserve the tree.

Larson moved to continue this public hearing to the September 13th PB meeting at 8:45 pm. Peterson seconded and the motion carried 5-0.

Application by Sabrina Perry, Lincoln, MA, for Site Plan Approval under Sec. 7.6 of the Zoning Bylaws for the improvements to Center Park on Town-owned property on Lowell Street, Map 22, Parcel 42, seeking a report and recommendation to the Board of Selectmen (Due date 10/2/06)

Mansfield reviewed the Site Plan Review process for the benefit of the Town residents in attendance. The Hearing is held by the BOS, and it is scheduled to open on August 22, 2006. The PB reviews the application and advises the BOS of its recommendations. The PB has 35 days from the date of the application to make their recommendations to the BOS. The PB can take information from the public and make recommendations to the BOS. The BOS then has 60 days after the hearing closes to render its decision on the Site Plan Review application. Mansfield added that all documents related to this are on file in the Town Clerk, the PB and the BOS' offices.

Epstein added that an in-depth discussion on this issue will not take place tonight, as the PB Chair is not in attendance. He then reminded Perry that the proposed landscaping plan must be provided to the abutters. It is important that the abutters have all possible information for participation in the discussion on this issue at the September 13th PB meeting.

This discussion will be continued at 9 pm at the PB meeting of September 13, 2006.

Greg Peterson left the meeting at this point.

ANR Plan: Tophet Road, Map 23, Parcels 22 & 23, Steven G. Breitmaier and Raymond J. Ciccolo, applicants

Mansfield reported that the plan is an amendment of an ANR plan the PB endorsed in 2004 which created the two building lots. A developer owns both lots and his goal is provide for more development space on Lot 79, as it is currently limited due to wetlands restrictions. Therefore he proposes to exchange two small parcels, of less than 3200 square feet each, between the two lots.

Lane moved to endorse as approval not required the plan of land in Carlisle, MA for Lots 79 and 80, located on Map 23, Parcels 22 and 23, dated March 21, 2006 and revised August 10, 2006, and prepared by Protec Engineering for Steven Breitmaier and Raymond Ciccolo. Gonzales seconded and the motion carried 4-0.

Preparation of rules and regulations for Personal Wireless Communications Facilities bylaw (Broadcast Signal Lab – Planning Board/joint subcommittee)

Mansfield pointed out that the wireless bylaw amendment has not yet been approved by the State Attorney General, and therefore the old bylaw is still in effect. He added that the first wireless special permit public hearing for the Town will be at the September 13th meeting.

Gonzales reported that consultant David Maxson has reviewed and revised the PB's Rules and Regulations for wireless. Gonzales is reviewing information provided by other Towns (Acton, Billerica, Dover), and is particularly favorable to Acton's Rules and Regulations. He reported that he plans to distribute draft Rules and Regulations by September 13, for discussion at the September 27th meeting. Gonzales requested that Caywood contact nearby Towns and inquire about their application fees and permit fees for wireless. Currently, Carlisle's application fee is \$3000 and the Project Review Fee is \$7500. Gonzales suggested an annual or biennial renewal fee if construction is not begun on a wireless facility after it has been approved for one or two years. Epstein suggested confirming with Town Counsel as to whether this is allowable. Gonzales suggested strengthening the requirements permitting wireless providers to abandon a facility.

Mansfield reminded the PB that they do have to hold a public hearing concerning the Rules and Regulations revision. Epstein asked Mansfield to inquire through the Town Clerk concerning the status of the new bylaw approval. Mansfield added that the Rules and Regulations need to be put in place quickly once the amended bylaw is approved, as Omnipoint has expressed interest in two additional locations.

Concerning the upcoming wireless hearing, the submitted application has several waiver requests. Epstein suggested hiring a consultant to review the application, particularly to ascertain the accuracy of the information contained. He confirmed from Mansfield that there is a checklist in the PB wireless Rules and Regulations outlining the required content of wireless applications, and Mansfield will circulate that to the PB in advance of the hearing.

Discussion of strategy with regard to pending litigation, Valchuis et al. v. Planning Board, Berry Corner Lane, Map 7, Parcel 29 (motion to go into executive session may be entertained)

At 8:45 pm, Epstein moved to enter briefly into Executive Session to discuss pending litigation. Lane seconded, and the motion carried 4-0: Gonzales, aye, Epstein, aye, Lane, aye, and Larson, aye.

At 8:55 pm, Epstein moved to exit Executive Session and return to regular session. Lane seconded, and the motion carried 4-0: Gonzales, aye, Epstein, aye, Lane, aye, and Larson, aye.

APA Chapter Membership

Mansfield reported that PB members are eligible for a free electronic membership in the local chapter of the American Planning Association, and asked for an interested party to represent the PB. Epstein and Gonzales expressed interest in the free membership. Epstein added that Freedman and Peterson may be interested as well.

Request for certification of substantial completion of Common Driveway Special Permit for 136-138 East Street [Request of Theodore Treibick]

The applicant had reported to the PB that the work on this Common Drive is complete except for the removal of the telephone pole at the entrance, which is to be done by Verizon. However, Verizon cannot remove the pole until other carriers remove their equipment from it. Mansfield reported that LandTech has recommended a minimum bond of \$1000 to ensure completion of the paving once the pole is removed by Verizon. The Applicant has agreed to this amount, and understands that a final As-Built Plan will be required, and is a condition of releasing this bond surety. Mansfield added that once the PB approves this method of surety, he can notify the Building Inspector that the PB's requirements have been met, and a Certificate of Occupancy for the new home on the drive may be issued.

Larson moved to certify to the Building Inspector that all conditions of the Common Driveway and Plan for 136-138 East Street have been satisfied, provided the applicant gives \$1000 as a security, to be held by the Treasurer, to ensure that the gravel entrance to the drive will be paved once the utility pole is removed, and upon receipt of an acceptable As-Built Plan, to be prepared after the pole is removed, and showing the proper placement of stone markers, the \$1000 can be returned to the applicant. Lane seconded the motion and it carried 4-0.

Town Hall technology/web site

Mansfield suggested scheduling a meeting in September with the land use Board Administrators and Bill Tice (BOS) concerning technology issues. He reported that the GIS data is currently not accessible on the computer.

Other items

Epstein reminded the meeting attendees that at the meeting tomorrow night (August 22, 2006), the BOS opens the public hearing on Center Park. He confirmed with Mansfield that for the next PB meeting of Wednesday, September 13th, the public hearing on the wireless application is scheduled for 7:45 pm, and the continuation of tonight's Tree Hearing is scheduled for 8:45 pm. Also, the PB scheduled its fall meetings for Monday, October 23rd, Monday, November 13th, and Monday, November 27th.

At 9:15 pm, Larson moved and Gonzales seconded that the PB meeting adjourn. The motion carried 4-0.

Respectfully Submitted,

Gretchen Caywood
Administrative Assistant
Carlisle Planning Board